

REMARKS

The present Amendment is in response to the Office Action mailed December 26, 2006, in the above-identified application. Enclosed herewith is a Petition requesting a three-month extension of time for resetting the deadline for responding to the Office Action from March 26, 2007, to and including June 26, 2007.

In the present Amendment, Applicants have amended independent claims 1 and 12 and dependent claims 7 and 14. The remaining originally filed claims remain unchanged. Applicants have also added new claims 19 and 20, which depend from independent claim 12. The amendment of claims 1, 7, 12, and 14, and the addition of new claims 19 and 20, are fully supported by the originally filed specification and add no new matter.

The Examiner objected to the specification as failing to provide clear support for the term "forward surfaces" and "confronting surfaces." In response, Applicants have amended paragraphs [0068-0072] to provide clear support for the above-mentioned claim terminology. Applicants note that the originally filed specification provides support for the amendment of paragraphs [0068-0072] at, *inter alia*, FIGS. 1A-1N and 4A-4P. In view of the above-noted changes to the specification, Applicants respectfully assert that the specification now satisfies the requirements of 37 C.F.R. §1.75(d)(1), and the M.P.E.P.

The Examiner objected to claims 7 and 8 as having informalities. In response, Applicants have amended claim 7 to delete the first occurrence of the terminology "when" and to change "contronting" to --confronting--. Applicants respectfully assert that the second occurrence of the term "when" before the terminology "two anterior-laterally facing surfaces" is appropriate. Thus, Applicants have not deleted the

second occurrence of the term "when." In view of the above, Applicants assert that claims 7 and 8 now satisfy the formality requirements of the M.P.E.P.

The Examiner rejected claims 1-3 and 5-18 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,604,487 to Gilbert. Referring to FIGS. 1 and 2 thereof, Gilbert discloses a tool having a working end that engages the head of a screw 10. Applicants note that the present application is directed to an insertion tool having a distal end that engages an orthopedic device such as an artificial intervertebral disc, a static trial placed into a disc space, or a distraction spacer placed into a disc space.

In order to more clearly recite the scope of the claimed invention, Applicants have amended independent claims 1 and 12 to positively recite an apparatus comprising an "orthopedic device including the first baseplate having a first vertebral body contacting surface and the second baseplate having a second vertebral body contacting surface." Clearly, Gilbert neither discloses nor suggests an orthopedic device "including the first baseplate having a first vertebral body contacting surface and the second baseplate having a second vertebral body contacting surface." As noted above, Gilbert discloses a tool for inserting a bone screw, and neither discloses nor suggests that the tool is used in conjunction with a device having first and second baseplates.

In view of the above-noted amendments to independent claims 1 and 12, Applicants respectfully assert that claims 1-3 and 5-18 are unanticipated by Gilbert and are otherwise allowable. Claim 2 is also unanticipated because Gilbert neither discloses nor suggests that the orthopedic device is an artificial intervertebral disc, a static trial or a distraction spacer.

The Examiner rejected claims 1-18 under 35 U.S.C. §103(a) as being unpatentable over *Gilbert*. In response, Applicants respectfully assert that claims 1-18 are unobvious over *Gilbert* for the reasons set forth above with respect to independent claims 1 and 12.

In the present Amendment, Applicants have added new claims 19 and 20, which depend from independent claim 12. New claim 19 is patentable because *Gilbert* neither discloses nor suggests an orthopedic device "selected from the group consisting of an artificial intervertebral disc, a static trial, and a distraction spacer." New claim 20 is patentable over *Gilbert* because the reference neither discloses nor suggests an orthopedic device having first and second baseplates "joined by a central coupling that enables the first and second baseplates to rotate and angulate relative to one another." In addition, new claims 19 and 20 are patentable over *Gilbert*, *inter alia*, by virtue of their dependence from claim 12, which is patentable over *Gilbert* for the reasons set forth above.

As it is believed that all of the rejections set forth in the Office Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested Amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: June 22, 2007

Respectfully submitted,

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